

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814

October 25, 1989



ALL COUNTY INFORMATION NOTICE NO. I-73-89

TO: ALL COUNTY WELFARE DEPARTMENTS
ALL PUBLIC AND PRIVATE ADOPTION AGENCIES
ALL SDSS ADOPTION DISTRICT OFFICES

SUBJECT: SENATE BILL 1177 (CHAPTER 994, STATUTES OF 1989)

This is to inform you of the provisions of Senate Bill 1177 (Chapter 994, Statutes of 1989). Effective January 1, 1990, this act amends Civil Code Section 224n to establish conditions under which a foster parent or parents must be given consideration, along with all other prospective adoptive families, to become the adoptive parent or parents of the foster child.

The foster parent or parents shall be considered for adoption of the child when all of the following conditions are met:

1. The child has been in the care of the foster parent or parents for more than four months.
2. The child has substantial emotional ties to the foster parent or parents.
3. The removal of the child from the foster parent or parents would be seriously detrimental to the child's well-being.
4. The foster parent or parents have made a written request to be considered to adopt the child.

In addition, the Department or licensed adoption agency shall take into consideration any relevant factors necessary in determining the adoptive placement of the child. The decision of the Department or agency for the adoptive placement of the child is presumed to be in the best interests of the child. The presumption that a specific adoptive placement is in the child's best interest may be rebutted when the foster parent or parents file an action which by a preponderance of evidence shows:

- 1) that the foster parent or parents have provided foster care to the child for more than four months; 2) that the child has substantial emotional ties to the foster parent or parents; and, 3) that the adoptive placement of the child with other persons would be seriously detrimental to the child's well-being.

The Department's adoption program regulations (Title 22, California Code of Regulations, Division 2) will be amended to reflect the provisions of Civil Code Section 224n as amended by SB 1177.

A copy of SB 1177 is enclosed. If you have questions regarding the implementation of this legislation, please contact the Adoptions Policy Bureau at (916) 322-4228 or ATSS 492-4228.



LOREN D. SUTER
Deputy Director

Enclosure

cc: CWDA

Senate Bill No. 1177

Passed the Senate September 11, 1989

Secretary of the Senate

Passed the Assembly September 5, 1989

Chief Clerk of the Assembly

**This bill was received by the Governor this _____
day of _____, 1989, at _____ o'clock ____M.**

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 224n of the Civil Code, relating to adoption.

LEGISLATIVE COUNSEL'S DIGEST

SB 1177, Royce. Adoption.

Existing law specifies procedures for the adoption of children. Existing law provides a preference for adoptive placement of a dependent child of the juvenile court with foster parents who have cared for the child, under specified circumstances. Existing law also authorizes the State Department of Social Services to adopt regulations setting priorities for placement of children for adoption reflecting, among other factors, racial background and ethnic heritage.

This bill would specify that if any child has been in foster care for a period of more than 4 months, the child has substantial emotional ties to the foster parent or parents, the child's removal from the foster parent or parents would be seriously detrimental to the child's well-being, and the foster parent or parents make a written request to be considered to adopt the child, the foster parent or parents shall be considered along with all other prospective adoptive families to adopt the child. The department or agency making the placement would be required to take into consideration any relevant factors that it deems necessary and the decision of the department or agency regarding adoptive placement of the child would be presumed to be in the child's best interests to be rebutted in an action filed by the foster parent or parents, as specified.

The people of the State of California do enact as follows:

SECTION 1. Section 224n of the Civil Code is amended to read:

224n. The department or licensed adoption agency to which a child has been freed for adoption by either relinquishment or termination of parental rights shall be

responsible for the care of the child, and shall be entitled to the exclusive custody and control of the child until a final decree of adoption has been granted. Any placement for temporary care, or for adoption made by the department or a licensed adoption agency, may be terminated at its discretion at any time prior to the granting of a final decree of adoption. In the event of termination of any placement for temporary care or for adoption, the child shall be returned promptly to the physical custody of the agency.

No petition may be filed to adopt a child relinquished to the department or a licensed adoption agency or a child declared free from the custody and control of either or both of his or her parents and referred to the department or a licensed adoption agency for adoptive placement, except by the prospective adoptive parents with whom the child has been placed for adoption by the department or licensed adoption agency. After the petition for adoption has been filed, the department or licensed adoption agency may remove the child from the prospective adoptive parents only with the approval of the court, upon motion by the department or a licensed adoption agency after notice to the prospective adoptive parents, supported by an affidavit or affidavits stating the grounds on which removal is sought. If the department or a licensed adoption agency refuses to consent to the adoption of a child by the person or persons with whom the department or licensed adoption agency placed the child for adoption, the superior court may nevertheless decree the adoption if it finds that the refusal to consent is not in the best interest of the child.

Notwithstanding any other provision of law, if the child has been in foster care for a period of more than four months, the child has substantial emotional ties to the foster parent or parents, the child's removal from the foster parent or parents would be seriously detrimental to the child's well-being, and the foster parent or parents make a written request to be considered to adopt the child, the foster parent or parents shall be considered with respect to that child along with all other prospective adoptive families. The department or agency shall take

into consideration any relevant factors that it deems necessary in determining the adoptive placement which is in the best interests of the child.

The decision of the department or licensed adoption agency for the adoptive placement of the child shall be presumed to be in the best interests of the child. This presumption may be rebutted in an action, filed by the foster parent or parents, by a preponderance of the evidence that foster care has been provided by the requesting foster parent or parents for more than four months, that the child has substantial emotional ties to the foster parent or parents, and that the adoptive placement of the child with someone other than the foster parent or parents would be seriously detrimental to the child's well-being.

For purposes of this section, the "department" means the State Department of Social Services.